

DETAILED ACTION

Specification

The Examiner has stated that the BACKGROUND SECTION of the specification is not appropriate as set forth in the MPEP § 608.01. Applicant respectfully disagrees.

Section 608.01(c) of the MPEP states in the section entitled “Background of the Invention,” “The Background of the Invention *ordinarily* comprises two parts: (emphasis added) (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions. The statement should be directed to the subject matter of the claimed invention.

(2) Description of the related art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A paragraph(s) *describing to the extent practical the state of the prior art* or other information disclosed known to the applicant, including references to specific prior art or other information where appropriate. *Where applicable*, the problems involved in the prior art or other information disclosed which are solved by the applicant's invention should be indicated. See also MPEP § 608.01(a), § 608.01(p) and § 707.05(b). (Emphasis added)”

However, purely in the interest of expediting the prosecution of the instant invention, Applicant has added a Background and Summary section.

Double Patenting

The Examiner has stated that Claims 1-28 are rejected under the judicially created doctrine grounded in public policy so as to prevent the unjustified or improper time wise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees.

The Examiner has rejected Claims 1-28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No.

Appl. No. 10/812,855
Amdt. Dated 02/29/2008
Reply to Office action of 11/30/2007

10/814,861. The Examiner believes the claims are similar in scope but Application respectfully disagrees. There are different elements in the claims and the claims are not identical.

However, purely in the interest of expediting the prosecution of the instant invention, Applicant has enclosed a terminal Disclaimer to overcome this rejection.

As such, Applicant believes that the independent claims, as well as the claims that depend from them, are in condition for allowance.

Respectfully submitted,
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Date: September 26, 2008

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